

ID: CCA-213230-09

Number: **200923033**

Release Date: 6/5/2009

Office:

UILC: 162.00-00

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**From:**

**Sent:** Friday, February 13, 2009 12:30 PM

**To:**

**Cc:**

**Subject:** Player disability

Hi

[REDACTED]

As for distinguishing the PLRs from the [REDACTED] case, we would distinguish PLR 7910064 and 8124026 by stating that the facts in the letters show minimal nexus between the amounts received by the employer under the insurance policies on which the employer is the beneficiary (1st policies) and the amounts paid out as a premium on the policy that has the employees as the beneficiaries (2nd policy). The people insured under the 1st policies may or may not be the same people as are insured under the 2nd policy. The letters do not indicate that the 1st policy was taken out to pay for the 2nd policy premiums. The letters do not indicate that the anticipated amounts to be received under the 1st policy were calculated to fund the premiums for the 2nd policy. There is no indication that the 2nd policy will be voided if the 1st policies do not pay off, or that the beneficiaries under 2nd policy have to do something to implement the 1st policies.

In [REDACTED], the taxpayer makes the argument that the amounts received by the employer under the disability policy are like the amounts received under the 1st policies in the PLRs and the amounts paid as compensation to the disabled ballplayer under his employment contract are like the amounts paid as premium payments by the employer in the PLRs, therefore these amounts should be deductible under section 162 just like in the PLRs. However, it seems that there are facts in the contracts that establish a closer nexus in the [REDACTED] case. The employment contract anticipates the disability insurance contract and allows for termination of the employment contract if the player fails to cooperate in obtaining such insurance. The PLRs do not state that the beneficiaries under the second policies have to cooperate in the employer's application for insurance under the 1st policies. The PLRs do not tie the two together.

[REDACTED]

Please let me know if you should need anything else.